

Chapter 9.30**SEIZURE AND FORFEITURE OF NUISANCE VEHICLES****Sections:**

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Section 9.30.010 Statement of purpose and intent.**A. Introduction.**

1. The City Council has determined that illegal dumping; drug offenses; and illegal street racing are nuisance activities that endanger the public health and safety. Vehicles used in these nuisance activities are themselves nuisances to be abated through seizure and forfeiture as provided in this chapter.

2. The procedures presented in this chapter for the seizure and forfeiture of nuisance vehicles are expressly intended as a remedy to abate these nuisances, to protect the City's residents and the public from harm to their health, safety, and welfare; to avoid the destruction and injury to lives and property; and to compensate the City for economic damages incurred as a result of the occurrence of these nuisance activities. Examples of such damages are the costs of cleaning up illegal dump sites, and diverting limited police and public works resources to address these nuisance activities through direct enforcement or other programs. Any deterrent effect is deemed incidental to the remedial purpose of this ordinance.

B. Illegal dumping.

The City Council has determined that people who use vehicles to illegally dump waste matter or attempt to do so, or transport waste matter for the purpose of illegally dumping it, within the City; bring decay and blight into the City's neighborhoods, create public health hazards, and invite more illegal dumping. Such blight, decay, and unhealthful conditions adversely affect the quality of life for the City's residents, lead to a reduction in the values of their property, and invite criminal activity. The City Council finds there is a need to provide for the abatement of such nuisance vehicles.

C. Drug offenses.

The City Council has determined that people who use vehicles to acquire or sell controlled substances, or make any attempt to do so, bring crime and decay into the City's neighborhoods. The City Council finds there is a need to provide for the abatement of such nuisance vehicles.

D. Illegal street racing.

The City Council has determined that people who use vehicles for illegal street racing create

an immediate threat to public safety. Participation in street racing requires drivers and other participants to use vehicles to blatantly violate motor vehicle laws. Such activity has been known to cause serious injuries and deaths in several cities throughout California and imperil innocent residents and the public. Such activity contributes to an increase in crime, particularly offenses involving alcohol and controlled substances. The City Council finds there is a need to provide for the abatement of such nuisance vehicles. (Ord. 6780 §1, 2005 (part); Ord 6677 §1, 2003; Ord 6648 § 1, 2003)

Section 9.30.020 Definitions.

"Business day" shall mean any weekday other than a Saturday, Sunday, or a legal holiday which falls on a day other than a Saturday or Sunday.

"City" shall mean the City of Riverside.

"City Attorney" shall mean the City Attorney of the City of Riverside or that person's designated Supervising Deputy City Attorney or Deputy City Attorney.

"Claimant" shall mean any person claiming an interest in a nuisance vehicle subject to forfeiture under this chapter, either by properly requesting a post-seizure hearing as set forth in § 9.30.080 D, or properly filing a claim opposing forfeiture as set forth in § 9.30.090 D.

"Controlled substance" shall mean a drug, substance, or immediate precursor that is now or hereafter listed in any schedule in California Health and Safety Code §§ 11054, 11055, 11056, 11057, or 11058, or their successor provisions or sections.

"Exhibition of speed" shall mean a willful act of showing off or displaying a dangerous or imprudent speed in a vehicle on a highway where the presence of another person is known to the driver or may be reasonably anticipated by the driver. In order to constitute an exhibition of speed under this chapter, there must be at least two spectators present at the event.

"Highway" shall mean a way or place of whatever nature, which is used or can be used by the public for vehicular travel. It does not include a facility which is specifically designed and legally maintained and operated for the purposes of speed contests or exhibitions of speed.

"Illegal dumping" shall mean the willful or intentional depositing, dropping, dumping, placing, or throwing of any waste matter onto that portion of public or private property located within the City and which is not expressly designated by the City for the purpose of disposal of waste matter. "Illegal dumping" does not include the discarding of small quantities of waste matter related to consumer goods only and which are reasonably understood to be ordinarily carried on or about the body of a living person, including but not limited to, beverage containers and closures, packaging, wrappers, wastepaper, newspapers, magazines, or other similar waste matter that escapes or is allowed to escape from a container, receptacle or package.

"Local law enforcement or governmental entities" means any city, charter city, county, or city and county, or the respective departments thereof, in this state.

"Nuisance" shall have the same meaning as set forth in Civil Code § 3479.

"Owner" shall mean the last registered owner; the last legal owner; and any, then-existing lien holder; of record as shown on the records of the Department of Motor Vehicles or similar state or federal agency, for any vehicle used for any of the nuisance activities subject to this chapter.

"Speed contest" shall mean a contest or event where a vehicle is raced on a highway against another vehicle, a clock, or other timing device. In order to constitute a speed contest under this section, at least two vehicles must be assembled or at least two spectators must be present at the event. An event where the time to cover a prescribed route of more than 20 miles is measured, but where the vehicle does not exceed the speed limit is not a speed contest.

"Street racing" and "street race" shall mean a speed contest or exhibition of speed as those terms are defined in this section.

"Vehicle" shall mean a vehicle as that term is defined in California Vehicle Code § 670,

and a motor vehicle as that term is defined in California Vehicle Code § 415.

"Waste matter" shall mean any form of tangible matter described by any of the following categories:

- 1.) All forms of garbage, refuse, rubbish, recyclable materials, and solid waste as those terms are defined in § 6.04.010 of this Code;
- 2.) Dirt, soil, rock, decomposed rock, gravel, sand, or other aggregate material;
- 3.) Abandoned or discarded furniture, or commercial or industrial or agricultural machinery, apparatus, structure, or container; sports or athletic equipment; or any piece, portion or part thereof;
- 4.) All forms of liquid waste not otherwise defined in or otherwise deemed to fall within the purview of § 6.04.010 of this Code or Health and Safety Code § 25117, including but not limited to, gray water, black water, water-based or oil-based paints; chemical solutions; non-potable water, except as specifically used for irrigation or construction; non-potable water contaminated with any substance rendering it unusable for irrigation or construction; oils, fuels, and other petroleum distillates or by-products;
- 5.) Hazardous waste as that term is defined in § 6.04.010 of this Code and in Health and Safety Code § 25117;
- 6.) Any form of biological waste not otherwise designated by this Code or other applicable law as hazardous waste; including but not limited to bodily fluids, body parts, carcasses, and any associated container, enclosure, or wrapping material used to dispose of such matter; and
- 7.) Any physical substance used as an ingredient in any process, now known or hereafter developed or devised, to manufacture any controlled substance specified in Health and Safety Code §§ 11054, 11055, 11056, 11057, 11058, or their successor provisions or sections; or which is a by-product or result of any such manufacturing process. (Ord. 6780 § 1, 2005 (part); Ord 6677 § 2, 2003; Ord. 6648 § 1, 2003)

Section 9.30.030 Abatement of nuisance vehicles by seizure and forfeiture.

A. Pursuant to the City's authority and power under Article II, Section 200 of the City's Charter to make and enforce all laws and regulations regarding municipal affairs, and pursuant to Government Code § 38771; the City declares that:

- 1.) Any vehicle used to illegally dump waste matter or attempt to do so in violation of this Code or other applicable state law is a nuisance;
- 2.) Any vehicle used to transport waste matter for the purpose of illegal dumping in violation of this Code or other applicable state law is a nuisance;
- 3.) Any vehicle used to acquire, attempt to acquire, sell, or attempt to sell any controlled substance in violation of applicable state or other law is a nuisance, subject to the limitation set forth at § 9.30.030 E; and
- 4.) Any vehicle used for street racing is a nuisance.

B. All such nuisance vehicles shall be abated through seizure and forfeiture procedures as provided in this chapter, subject to the forfeiture exceptions set forth at § 9.30.110.

C. A criminal conviction shall not be required as a prerequisite to any forfeiture proceeding brought pursuant to the authority of this chapter, except as provided in § 9.30.030 E.

D. Physical seizure of a nuisance vehicle subject to this chapter shall not be required as a prerequisite to institution of forfeiture proceedings.

E. Section 9.30.030 A.3 shall apply only to those persons who have been convicted of any drug-related offense within five (5) years prior to the date of the commission of the act giving rise to the nuisance under this chapter. (Ord. 6780 § 1 (part); Ord. 6648 § 1, 2003)

Section 9.30.040 Responsible persons.

Any person who owns, leases, borrows, possesses, maintains, or uses any vehicle for any of the purposes or acts set forth in this chapter is responsible for creating a public nuisance. (Ord. 6780 § 1, 2005 (part); Ord.6648 § 1, 2003)

Section 9.30.050 Right, title and interest in nuisance vehicles.

All right, title and interest in any nuisance vehicle described in Section 9.30.030 shall vest in the City upon commission of the act giving rise to the nuisance under this chapter; except for those vehicles subject to the forfeiture exceptions set forth at § 9.30.110. (Ord. 6780 § 1, 2005 (part); Ord 6648 § 1, 2003)

Section 9.30.060 Authority for seizure of nuisance vehicles.

Nuisance vehicles subject to forfeiture under this chapter may be seized by any peace officer upon process issued by any court having jurisdiction over the vehicle. Seizure without process may be made if any of the following situations exist:

- A. The seizure is incidental to an arrest or a search under a search warrant;
- B. There is probable cause to believe that the vehicle was used in violation of this chapter based upon a reasonable investigation of the facts. (Ord. 6780 § 1, 2005, (part); Ord. 6648 § 1, 2003)

Section 9.30.070 Process for seizure.

- A. Investigation of vehicle ownership interests.

The Riverside Police Department shall make a prompt investigation as to any potential claimant to a nuisance vehicle that is subject to this chapter whose right, title, interest, or lien is of record in the Department of Motor Vehicles of this state or any other state or appropriate federal agency.

- B. Notice of seizure.

1. At the time a nuisance vehicle is seized pursuant to this chapter by the Riverside Police Department, the seizing officer shall provide a notice of seizure to the person from whose possession the vehicle was seized.

2. If the Riverside Police Department's investigation reveals any potential claimants, other than the person from whom the nuisance vehicle was seized, and whose right, title, interest or lien existed prior to the date of the commission of the act giving rise to the nuisance; then the Riverside Police Department shall send a notice of seizure to each such claimant within three business days following the date the vehicle was seized. Such notice shall be served by regular mail at the claimant's address appearing on the records of the applicable state's Department of Motor Vehicles or appropriate federal agency. The Riverside Police Department shall forward a copy of each such notice to the City Attorney.

- 3. The notice of seizure shall include the following:

(a) A description of the seized vehicle, including its make, model, license plate number and Vehicle Identification Number (VIN);

(b) The location, authority, and reason for the vehicle's seizure by the Riverside Police Department;

(c) A statement describing the opportunity for a post-seizure hearing as specified in § 9.30.080 and the requirements and time limits for requesting such a hearing; and

(d) A statement that a report of the seizure investigation shall be sent to the City Attorney for review for institution of forfeiture proceedings.

- C. Receipts.

1. Receipts for nuisance vehicles seized pursuant to this chapter shall be delivered to any person from whose possession such vehicle was seized. Where such a possessor is

arrested for a public offense incidental to the vehicle's seizure, then the receipt shall be issued in accordance with Penal Code § 1412. For the purposes of this chapter, neither Penal Code § 1412 nor any provision of this chapter shall be construed as precluding the delivery of a completed Vehicle Report (CHP 180 Form) as the receipt required by this section.

2. There shall be a presumption affecting the burden of proof that a person to whom a receipt was issued is an owner of the seized vehicle. This presumption may be rebutted at the trial specified in § 9.30.100 A.2.

D. Towing and storage.

The Riverside Police Department shall make arrangements for the towing of a seized vehicle and its storage at a City facility designated by the Public Works Director or that person's designated agent.

E. Seized vehicles as evidence.

A nuisance vehicle seized pursuant to this chapter, where appropriate, may be held for evidence in any proceeding brought by the City Attorney or District Attorney.

F. No seizure; notice of potential claimant.

In those instances where a nuisance vehicle subject to this chapter is identified but not seized and the Riverside Police Department's investigation reveals any potential claimants whose right, title, interest or lien existed prior to the date of the commission of the act giving rise to the nuisance; then the Riverside Police Department shall provide the name, address, and other identifying information, if any, of each potential claimant to the City Attorney. (Ord. 6780 §1, 2005 (part); Ord 6648 §1, 2003)

Section 9.30.080 Post-seizure hearing.

A. Opportunity for hearing.

The Riverside Police Department shall provide any potential claimants, discovered as a result of its investigation of vehicle ownership interests, with the opportunity for a post-seizure hearing to determine the validity of the seizure, that is, whether there was probable cause to believe the vehicle was used in violation of this chapter.

B. Manner of hearing.

The Riverside Police Department shall have the authority, but not the obligation, to conduct this hearing in the same manner as a vehicle post-storage hearing conducted pursuant to Vehicle Code § 22852.

C. Hearing officer.

The Riverside Police Department may authorize its own officer or employee to act as a hearing officer and conduct the post-seizure hearing, provided that the officer so chosen is not the same person who directed or participated in the seizure of the nuisance vehicle.

D. Request for hearing.

Any claimant who desires a post-seizure hearing must make a request to the Riverside Police Department in person, or in writing, or by telephone as specified in the notice of seizure. The request must be made within ten business days of the date of the notice of seizure. Failure to make a request within the time allowed shall constitute the claimant's waiver of any right to a post-seizure hearing and satisfies the requirement for such a hearing.

E. Time for hearing.

The post-seizure hearing shall be conducted within five business days of the date of the first request received by the Riverside Police Department from any claimant.

F. Multiple claimants; notice of hearing.

1. If there are multiple claimants, then upon receipt of the first request for a post-seizure hearing, the Riverside Police Department shall send written notice, by regular mail, of the date, time, and location of the post-seizure hearing to the remaining claimants.

2. The Riverside Police Department shall not be required to conduct multiple post-

seizure hearings for each seized nuisance vehicle.

3. Claimants who cannot attend the post-seizure hearing as scheduled, and wish to be heard, may send a written statement for the hearing officer's consideration to the Riverside Police Department at the address specified in the notice of seizure.

G. Findings of hearing officer.

1. If the hearing officer determines that no probable cause existed for the seizure, the vehicle shall be released as soon as practicable to the appropriate claimant without imposing any towing and/or storage charges. The City Attorney and each claimant shall be notified of the release.

2. If the hearing officer determines that probable cause for the seizure existed and that the seized vehicle may be subject to the forfeiture exceptions set forth at § 9.30.110, the hearing officer shall confer with the City Attorney as soon as possible. Upon the determination of the City Attorney that a forfeiture exception applies, the vehicle shall be released as soon as practicable to the appropriate claimant without imposing any towing and/or storage charges. The City Attorney and each claimant shall be notified of the release.

3. If the hearing officer determines that probable cause existed for the seizure, then forfeiture proceedings against the vehicle will continue as provided in § 9.30.090. (Ord. 6780 § 1, 2005 (part); Ord. 6648 § 1, 2003)

Section 9.30.090 Administrative forfeiture proceedings.

A. Application.

The provisions of this section shall apply only to nuisance vehicles actually seized under the authority of this chapter.

B. Factual determination.

The City Attorney shall determine from the police reports and other relevant information, if any, whether the factual circumstances surrounding the seizure warrant forfeiture of the seized vehicle.

C. Notice of administrative proceedings.

1. In those instances where forfeiture is warranted, the City Attorney shall cause a notice of administrative proceedings to be sent by certified mail, return receipt requested, to each potential claimant identified by the Riverside Police Department. Personal service shall not be required. This notice shall be accompanied by a claim form.

2. The notice of administrative proceedings shall include the following:

(a) The vehicle and seizure information presented in the notice of seizure;

(b) Notice that administrative forfeiture proceedings have begun and can be opposed only by filing a claim opposing forfeiture, the time limits for filing the claim, and instructions for filing and serving the claim; and

(c) Notice that failure to properly file and serve the claim will result in forfeiture of the vehicle.

3. The City Attorney shall serve the notice of administrative proceedings as soon as practicable, but in any event within 30 business days of the date the last police report for the seizure is received by the City Attorney's office.

4. If a claimant entitled to notice resides out of state and has refused or failed to accept certified mail, then service may be made by regular mail.

5. If a claimant entitled to notice cannot be located, or service as required by this section cannot otherwise be effected, then service may be made by publication in a Riverside newspaper of general circulation. Such service shall be deemed sufficient when it is accomplished pursuant to Government Code § 6063 or its successor provision or section.

6. The City Attorney shall send written notice to the Department of Motor Vehicles, Registration Operations Division, Involuntary Transfer Section, requesting that a Vehicle

License and Title stop be placed against the DMV record of the seized nuisance vehicle.

D. Claim opposing forfeiture.

1. A claimant seeking to oppose the administrative forfeiture of a seized nuisance vehicle must file a claim, using the Claim Opposing Forfeiture form, within ten business days of the date of the notice of administrative proceedings.

2. The claim must be verified in accordance with § 446 of the Code of Civil Procedure, or its successor provision or section.

3. The claim must be filed with the Civil Division, Court Clerk of the Riverside County Superior Court.

4. The claimant must serve a court-conformed copy of the claim upon the City Attorney within ten business days of the date on which it was filed.

5. Upon the proper filing and service of a Claim Opposing Forfeiture form, the forfeiture proceedings will continue as provided in § 9.30.100.

E. Failure to file claim; order of forfeiture.

1. The failure of a claimant to properly file and serve a claim opposing forfeiture shall result in the waiver of the claimant's interest in the seized nuisance vehicle.

2. The City Attorney may, pursuant to this section, declare and order the forfeiture of a seized nuisance vehicle in those cases where no claims are properly filed and served.

F. City Attorney declaration of forfeiture.

1. The City Attorney shall prepare a written declaration of forfeiture of the seized nuisance vehicle and dispose of it in accordance with § 9.30.120. The declaration of forfeiture signed by the City Attorney under this section shall be deemed to provide good and sufficient legal title to the vehicle so forfeited.

2. The City Attorney shall serve, by regular mail, a copy of the declaration to each claimant who received a notice of administrative proceedings. (Ord. 6780 § 1, 2005 (part); Ord. 6648 § 1, 2003)

Section 9.30.100 Judicial forfeiture proceedings.

A. Cases involving seized nuisance vehicles.

1. Petition for forfeiture.

(a) If a claim is properly filed and served, thereby contesting the administrative forfeiture; then the forfeiture shall proceed through a judicial proceeding. The City Attorney shall file a petition for forfeiture pursuant to this section within thirty business days of the receipt of the claim.

(b) The City Attorney shall serve a copy of the petition by regular mail to all claimants who properly filed and served a claim. The City Attorney shall not be required to serve a copy of the petition on any other claimants.

2. Trial.

(a) Upon the filing of a petition for forfeiture, the forfeiture proceeding shall be set for hearing. The hearing shall be a trial before the court or jury in the Superior Court of Riverside County. The presiding judge of the Superior Court, or that judge's designated agent, shall assign the case for trial. The initial date for trial shall be set on a date not less than thirty business days from the date the petition for forfeiture was filed. The trial date may be continued upon stipulation of the parties, or upon a proper motion to the department of the court to which the case is assigned.

(b) The trial shall be a civil in rem proceeding directed at vehicles subject to this chapter.

(c) The provisions of the Code of Civil Procedure shall apply at trial unless otherwise inconsistent with the provisions or procedures set forth in this chapter. Further, in such a trial, there shall be no cross-complaints, and no joinder of actions or coordination of actions, except

for related forfeiture proceedings. The issues shall be limited strictly to the questions related to this chapter.

(d) At trial, the City of Riverside shall have the burden of proving by a preponderance of the evidence that the vehicle was used in violation of this chapter.

B. Cases involving nuisance vehicles that have not been seized.

1. Seizure order.

(a) Where sufficient reason under this chapter warrants the seizure and forfeiture of a nuisance vehicle and that vehicle has not been seized; the City Attorney may proceed by seeking a seizure order in conjunction with the filing of a petition for forfeiture. The seizure order may be supported by the same affidavit/s or declaration/s offered in support of the petition. The supporting affidavit/s or declaration/s shall be those of the investigating officer/s of the Riverside Police Department, and officers of other law enforcement agencies or the employees of other City departments involved, if any, who have personal knowledge of the facts.

(b) In those cases where there is sufficient reason to believe that persons in possession of the nuisance vehicle for which a seizure order is sought are likely to conceal or dispose of the vehicle, or otherwise attempt to prevent its seizure, then the City Attorney may seek a seizure order prior to the filing of a petition for forfeiture.

(c) Where the City Attorney seeks a seizure order, the seizure order shall be sought as soon as practicable, but in no event later than one year from the date of the commission of the act giving rise to the nuisance.

(d) Upon sufficient showing of good cause, the court shall issue the seizure order.

(e) The Riverside Police Department shall serve the seizure order. Upon seizure of the vehicle identified in the seizure order, the Riverside Police Department shall provide a copy of the seizure order to the person from whose possession the vehicle was seized. In the event no one is present at the time of seizure, the Riverside Police Department shall leave a copy of the seizure order at a conspicuous place at the premises where the vehicle was seized.

2. Petition for forfeiture.

(a) The City Attorney shall file a petition for forfeiture within ten business days of the date of seizure. The petition shall make reference to the seizure order and its supporting affidavit/s or declaration/s. A copy of the petition shall be served on the person/s from whom the vehicle was seized and upon all potential claimants known to the City Attorney.

3. Trial.

Upon filing and service of the petition for forfeiture, the judicial forfeiture proceedings shall proceed in accordance with Section 9.30.100 A.2. (Ord. 6780 § 1, 2005, (part); Ord. 6648 § 1, 2003)

Section 9.30.110 Exceptions to forfeiture of nuisance vehicles.

A. Seized vehicles.

1. Notwithstanding the provisions of this chapter, the Riverside Police Department shall return a seized vehicle, and that vehicle shall not be subject to forfeiture, upon the determination of any of the following circumstances:

(a) The vehicle was actually stolen, provided that:

(1) The theft was reported to a law enforcement agency prior to the reporting of the vehicle's use in violation of this chapter to the Riverside Police Department or other City department;

(2) The identity of the registered owner can be reasonably ascertained; and

(3) The registered owner redeems the vehicle within 30 days of the seizure.

(b) The vehicle is owned by a bona fide rental car agency, provided that the vehicle's use in violation of this chapter was made without the agency's knowledge and consent.

(c) The vehicle is owned by the employer of the person who used it in violation of this chapter, provided that:

(1) The use was made without the employer's knowledge and consent;
(2) The use did not provide a direct benefit to the employer's business; and
(3) The use did not further or advance the employer's business interests in any way, and the use was of such nature that had the employer known, the use would have resulted in termination or substantial discipline.

(d) The vehicle is legally owned as community property, provided that:

(1) The vehicle is the sole vehicle available to the immediate family of the driver or possessor from whom the vehicle was seized that may be operated with a Class C driver's license;

(2) The community property interest owner, other than the driver or possessor from whom the vehicle was seized, enters into a written, stipulated vehicle release agreement pursuant to § 9.30.110 B as consideration for the non-forfeiture of the vehicle;

(3) The community property interest owner submits written proof of that interest; presents his or her valid driver's license or a valid driver's license for an authorized driver; presents proof of valid registration and insurance; and pays all towing and storage fees, or reimburses the City for any and all towing and/or storage fees incurred; and

(4) The vehicle was not used in a street race that directly resulted in the death or serious injury of any person.

B. Stipulated vehicle release agreement.

1. The City Attorney shall prepare the stipulated vehicle release agreement. The agreement, at a minimum, shall provide for the following:

(a) Consent of the community property interest owner signing the agreement to the automatic future seizure and forfeiture of, and transfer of title to the City, of the vehicle identified in the agreement upon any subsequent use of the vehicle in violation of this chapter;

(b) Seizure pursuant to this section shall be made with a seizure order issued by the Superior Court. The supporting affidavit or declaration shall include a copy of the agreement and a certified copy of this ordinance; and

(c) Any other provision deemed appropriate in the sole discretion of the City Attorney.

2. The City Attorney shall send written notice to the Department of Motor Vehicles, Registration Operations Division, Involuntary Transfer Section within ten business days of the date the vehicle is seized.

C. Vehicles that have not been seized.

Notwithstanding the provisions of this chapter, vehicles subject to seizure and forfeiture that have not been seized, and which otherwise meet the criteria set forth in § 9.30.110 A, shall not be the subject of any seizure order, petition for forfeiture, or forfeiture proceeding. (Ord. 6780 § 1, 2005 (part))

Section 9.30.120 Court declaration of forfeiture of nuisance vehicles.

A. Upon proof that the vehicle was used for any of the purposes set forth in § 9.30.030, the court shall declare the vehicle a nuisance and order that it be forfeited to the City of Riverside for disposal as set forth in § 9.30.130.

B. If the vehicle which has been declared a nuisance and ordered forfeited to the City is not in the City's possession, the court shall issue a seizure order for the vehicle forthwith. (Ord. 6780 § 1, 2005 (part))

Section 9.30.130 Disposal of nuisance vehicles.

1. In all cases where vehicles seized pursuant to this chapter are forfeited to the City, the vehicles shall be sold or destroyed. The proceeds of sale shall be distributed and

appropriated as follows:

(a) To the City Attorney's Office to pay costs made or incurred or associated with proceedings instituted under this chapter. These costs shall include, without limitation, the towing; storage and release; sale, including any repairs, transportation or storage necessary to facilitate the sale, of any nuisance vehicle seized and forfeited under this chapter; auction commissions; the costs for publication and mailing of all required notices; where necessary, the costs for translation of required notices and pleadings into a foreign language by a court-certified interpreter. Personnel costs shall not be included.

(b) to the bona fide or innocent purchaser, conditional vendor, mortgagee or lien holder of the vehicle, if any, up to the amount of his or her interest in the vehicle only, when the court or City Attorney declaring the forfeiture orders a distribution to that person.

2. Any remaining funds shall be distributed as follows:

(a) For cases involving illegal dumping:

(1) Fifty percent (50%) to the City of Riverside Public Works Department, to be maintained in a separate fund for illegal dumping abatement;

(2) Twenty-five percent (25%) to local law enforcement or governmental entities that participated in the seizure distributed so as to reflect the proportionate contribution of each agency; with distribution to the Riverside Police Department to be maintained in a separate fund for nuisance vehicle abatement;

(3) Twenty-five percent (25%) to the City Attorney, to be maintained in a separate fund for nuisance vehicle abatement.

(b) For all other cases arising under this chapter:

(1) Fifty percent (50%) to local law enforcement or governmental entities that participated in the seizure distributed so as to reflect the proportionate contribution of each agency; with distribution to the Riverside Police Department to be maintained in a separate fund for nuisance vehicle abatement;

(2) Fifty percent (50%) to the City Attorney, to be maintained in a separate fund for nuisance vehicle abatement.

3. In the event the condition of the vehicle is such that it is not suitable for sale at a public auction, or the cost of sale exceeds its fair market value, it may be sold for scrap.

4. A vehicle may be destroyed only if the vehicle has been modified in ways that make its sale impracticable, or the condition of the vehicle warrants destruction, and there are no lien holders or claimants who did not know that the vehicle was used in violation of this chapter.

5. A forfeited vehicle shall not be sold to the person who used or drove the vehicle during the commission of the act giving rise to the nuisance under this chapter.

6. In lieu of forfeiture, a settlement may be negotiated, in which case the proceeds of the settlement shall be distributed in the same manner as a sale.

7. All the funds distributed to the City of Riverside Public Works Department, to local law enforcement or governmental entities or to the City Attorney pursuant to this section shall not supplant any funds that would, in the absence of this section, be made available to support their abatement efforts, procedures, or programs.

8. For budgeting purposes, funds attributable to this ordinance shall not be considered anticipated revenue into the general fund. (Ord. 6780 § 1, 2005 (part))

Section 9.30.140 Recovery of monetary loss.

Nothing in this chapter shall preclude an owner of a nuisance vehicle subject to seizure and forfeiture who suffers a monetary loss from the forfeiture of a vehicle under this chapter from recovering the amount of the actual monetary loss from the person who committed the act giving rise to the nuisance that resulted in the forfeiture. (Ord. 6780 § 1, 2005, (part))